

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FERNANDO HERNANDEZ, et al.,

Plaintiffs,

- v. -

THE FRESH DIET INC., et al.,

Defendants.
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ORDER

12 Civ. 4339 (ALC) (JLC)

USDC SDNY
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DOC #:
DATE FILED: 12/6/13

JAMES L. COTT, United States Magistrate Judge.

By Order dated November 19, 2013, the Court directed counsel for Plaintiffs to put in writing the status of Plaintiffs' responses to the outstanding discovery requests no later than November 22, 2013. All production of the outstanding documents was to have been made to Defendants by December 4, 2013.

By letter dated December 3, 2013, counsel for Defendants requests a pre-motion conference pursuant to Rule 37(b)(2) as a result of Plaintiffs' failure to comply with the Court's November 19th Order. Notwithstanding Rule II.B.1 of the Court's Individual Practice Rules, which require that Plaintiffs respond to such a letter within two business days, Plaintiffs have not made any responsive submission to the Court. Accordingly, Plaintiffs are hereby directed to submit a response to Defendants' December 3rd letter no later than noon on December 9, 2013. Failure to do so may result in sanctions.

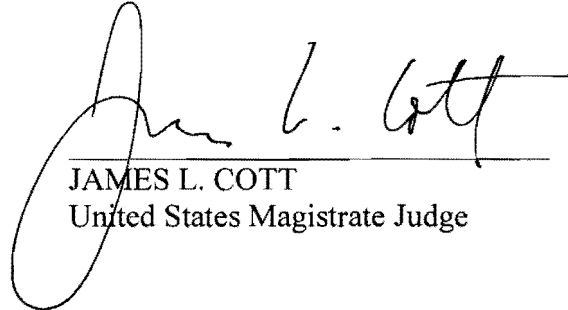
Finally, I note that if Plaintiffs are, in fact, now taking the position that the Court did not order the limited production of tax documents with respect to all plaintiffs and opt-ins in this case – as Defendants suggest is the case in their December 3rd letter – Plaintiffs are mistaken. The record is clear that the Court directed Plaintiff to provide a list of all plaintiffs and opt-ins,

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whether their tax returns were available, and if so, to make the limited production (with appropriate redactions) discussed with the Court.

SO ORDERED.

Dated: New York, New York
December 6, 2013



JAMES L. COTT
United States Magistrate Judge